

April 18, 2007

**OFFICE OF THE HEARING EXAMINER  
KING COUNTY, WASHINGTON**

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**REPORT AND DECISION**

SUBJECT: Department of Development and Environmental Services File No. **L05S0029**

**HOLMES POINT**

Appeals of Environmental Determination of Non-Significance (DNS) and  
Preliminary Short Plat Approval

Location: 11640 – 73rd Place Northeast, Kirkland

Appellants: Ted and Inge-Lise Marx, David and Marilyn Steele and Glen Mary  
Homeowners Association  
*represented by* **Rachel Humphrey Fleet**, Attorney  
P.O. Box 2509  
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King County: Department of Development and Environmental Services (DDES)  
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Applicant: Bernie James  
Manchester Homes  
*represented by* **Duana Koloušková**, Attorney  
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**SUMMARY OF RECOMMENDATION/DECISION:**

Department's Preliminary Recommendation:

Approve, subject to conditions

Department's Final Recommendation:

Approve, subject to conditions (modified)

Examiner's Decision:

Approve, subject to conditions (modified)

**EXAMINER PROCEEDINGS:**

Hearing Opened: April 10, 2006  
Hearing Closed: April 10, 2006

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

**ISSUES AND TOPICS ADDRESSED:**

- Standard of review
- Surface water drainage
- Road safety
- Holmes Point minimum site disturbance development standards (NS-P23)

**SUMMARY:**

Appeals of the State Environmental Policy Act (SEPA) Threshold Determination of Non-Significance and preliminary approval of a three lot short plat in the urban area are denied.

**FINDINGS, CONCLUSIONS & DECISION:** Having reviewed the record in this matter, the Examiner now makes and enters the following:

**FINDINGS:****1. General Information:**

STR: SW 25-26-4  
Location: 11640 73<sup>rd</sup> Place NE, Unincorporated King County  
Zoning: R-6-SO  
Acreage: .51 acres  
Number of Lots: 3  
Proposed Use: Single Family Residential  
Sewage Disposal: Northshore Utility District  
Water Supply: Northshore Utility District

2. Except as modified herein, the facts set forth in the King County Land Use Services Division's Report and Decision (exh. no. 2) are found to be correct and are incorporated herein by this reference.
3. In considering the administrative appeal of an environmental threshold determination, the decision of the responsible official is entitled to substantial weight pursuant to KCC 20.44.120 and RCW 43.21C.075(3)(d).
4. Travel to and from the proposed plat will utilize 73rd Place Northeast between the subject property and Holmes Point Drive Northeast (76th Place Northeast). The width of this section of 73rd Place Northeast varies between 16 and 18 feet. The conditions of final short approval require that the development widen the roadway between the subject property and Holmes Point

Drive Northeast to a minimum 20 feet, and construct urban improvements along the frontage of the subject property, which will include curb, gutter and sidewalk and a minimum 20 foot wide paved driving surface.

There will be only occasional vehicle traffic generated by this development that will use 73rd Place Northeast north of the subject property. That roadway section is only 9 feet wide, but there will be virtually no impact by this development on that roadway.

An existing vertical curve (grade) on 73rd Place Northeast at this property will be reduced substantially pursuant to a requirement by the King County Department of Transportation. As a condition of an approved road variance, the road crest will be reconstructed to provide a minimum of 150 feet of stopping site distance for a two foot target on the roadway. This improvement will require road reconstruction for a distance of approximately 200 feet, and will reduce the existing crest by one foot.

These road improvements will significantly improve the public safety for general vehicle traffic, pedestrians and emergency vehicles utilizing the roadway between Holmes Point Drive Northeast and the subject property. There is no substantial evidence that the safety of the public will be adversely affected at any location on 73rd Place Northeast or elsewhere by this subdivision and the associated road improvements.

5. Surface water currently flows from the site primarily to the southeast, onto the adjacent property. However, some surface water reaches the roadway of 73rd Place Northeast along the property frontage, where it flows across the road and then flows northwest and southeast, depending upon the location where the flow crosses the roadway in relation to the existing crest. Drainage improvements to be required as a condition of final plat approval will collect surface water runoff on the northeast side of 73rd Place Northeast and convey it to the southeast. The runoff from the site, when developed, will not contribute to existing erosion problems described by the evidence at locations northwest and southwest of the subject property, and along 73rd Place Northeast.
6. The subject property is within the area that is subject to the Holmes Point site disturbance P-suffix condition of the Northshore Community Plan and area zoning, designated "NS-P23", adopted as a development regulation by King County. This condition requires that a proposal on the subject site meet site disturbance standards which include limits on removal of trees and other vegetation. The DDES report and decision that approved this short subdivision identified NS-P23 as being applicable to the proposal (see "Design Features", exh. no. 2, page 2, section D.1) but did not include a specific condition of final plat approval to assure implementation of this standard. DDES has requested that its decision be amended to specifically include compliance with NS-P23 as a condition of final plat approval. All parties concur that implementation of NS-P23 requires that each lot resulting from the short plat meet the specific vegetation removal and tree retention requirements.
7. The short subdivision of this .51 acre property within the urban area into three lots for single-family dwellings will create some change in character of the immediate area, and will affect the views and immediate surroundings of the adjacent property owners. These changes are

consistent with the density of development that is permitted within the urban area and with the policies and adopted regulations of King County.

CONCLUSIONS:

1. The evidence presented does not establish that the responsible official made a mistake in issuing the Threshold Determination of Environmental Non-Significance.
2. The preponderance of the evidence does not show that there will be any adverse impact to the public safety resulting from this short subdivision, or resulting from the road improvements that are required as conditions of final short subdivision approval or the associated road variance.
3. The evidence does not show any adverse impact resulting to adjacent properties or 73rd Place Northeast from surface water drainage or erosion that would occur from the development of the subject property.
4. A condition of final short subdivision approval should be added, requiring that the lots resulting from this subdivision shall each meet the requirements of NS-P23 as a condition of final short plat approval.

DECISION:

The appeal of the Threshold Determination of Environmental Non-Significance and the appeal of the preliminary approval of this short subdivision, filed by Ted and Inge-Lise Marx, David and Marilyn Steele and the Glen Mary Homeowners Association are DISMISSED, and the report and decision of the Department of Development and Environmental Services granting preliminary approval to the short subdivision is affirmed, subject to the addition of the following condition of final short plat approval:

8. C. Each of the lots of the final plat shall demonstrate compliance with the Holmes Point site disturbance P-suffix conditions of NS-P23.

ORDERED April 18, 2007.

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James N. O'Connor  
King County Hearing Examiner *pro tem*

TRANSMITTED this 18th day of April, 2007, to the following parties and interested persons of record:

Peter Anderson  
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Kirkland WA 98034

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Karla Richardson 7412 NE 118th Place Kirkland WA 98034-2415	David & Christine Sharp 11647 - 73rd Pl. NE Kirkland WA 98034	Jo Ann & David Steele 11648 - 73rd Pl. NE Kirkland WA 98034
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#### NOTICE OF RIGHT TO APPEAL

Pursuant to Chapter 20.24, King County Code, the King County Council has directed that the Examiner make the final decision on behalf of the County regarding short plat and SEPA appeals. The Examiner's decision shall be final and conclusive unless proceedings for review of the decision are properly commenced in Superior Court within twenty-one (21) days of issuance of the Examiner's decision. (The

Land Use Petition Act defines the date on which a land use decision is issued by the Hearing Examiner as three days after a written decision is mailed.)

MINUTES OF THE APRIL 10, 2007, PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NO. L05S0029.

James N. O'Connor was the Hearing Examiner in this matter. Participating in the hearing were Barbara Heavey, Mark Bergam and Bruce Engell, representing the Department; Duana Kolouskova representing the Applicant; Rachel Humphrey Fleet representing the Appellant; and David Steele and Ted Marx.

The following Exhibits were offered and entered into the record:

- Exhibit No. 1 Department of Development and Environmental Services Report to the Hearing Examiner, dated April 10, 2007
- Exhibit No. 2 Department of Development and Environmental Services Report and Decision for file no. L05S0029 with attachments (2)
- Exhibit No. 3 Notice of Appeal of Short Plat file no. L05S0029, dated January 5, 2007
- Exhibit No. 4 Statement of Appeal of Short Plat file no. L05S0029, dated January 15, 2007
- Exhibit No. 5 King County Graphic Information System (GIS) aerial LIDAR mapping of subject area
- Exhibit No. 6 King County Graphic Information System (GIS) zoning. street system mapping of subject area
- Exhibit No. 7 King County Graphic Information System (GIS) 2005 aerial photograph of subject area
- Exhibit No. 8 Preliminary plat map, sheet 1 of 6 – Preliminary Utilities and Grading Plan (revised), received November 17, 2006 (highlighted by Mark Bergam)
- Exhibit No. 9 Development Condition Query Results, Post-conversion Conditions: NS-P23, effective July 22, 1999
- Exhibit No. 10 Peterson Consulting Engineers transmittal with attachments (4) and Drop-off Cover Sheet, received January 17, 2006
- Exhibit No. 11 Department of Development and Environmental Services main project file for L05S0029
- Exhibit No. 12 Memorandum dated April 4, 2007, from David Steele with color photos taken late March 2007
- Exhibit No. 13 Preliminary plat map, sheet 5 of 6 – Retained Vegetation Plan with highlighting added
- Exhibit No. 14 Copy of testimony of Bruce Engell

JNOC :gao  
L05S0029 RPT